IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8720 OF 2005

Shri Lalchand Savadhu Mourya ... Petitioner

V/s

Mr. Siraj Kamaluddin Shaikh ... Respondent

Mr. V.N. Tayade for the petitioner.

CORAM: P.V. KAKADE, J.

DATED: 21ST FEBRUARY, 2006

P.C.:

1. Heard learned counsel for the petitioner. Perused the record.

2. The petition is preferred by the petitioner landlord against the order passed by the Ad-hoc Addl. District Judge, Kalyan, dated 9.6.2005 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, Jr. Divn., dated 10.11.2000 dismissing his suit for declaration and perpetual injunction.

3. The petitioner plaintiff filed the suit inter-alia submitting that the defendant was his tenant in the suit

premises in the structure admeasuring 10 x 11 sq.ft. The said structure was converted into super-ficial structure, however, the defendant who was paying the rent of Rs.50/- had demolished the same and constructed pucca construction on the said place and, therefore had committed breach of condition of the tenancy and hence the suit was filed in order to seek declaration that the defendant had no right to interfere with the suit room against the right of tenancy and that to get the said present unauthorized construction demolished and to construct it on the same place as it was before the new construction and further for mandatory and perpetual injunction with regard to the said structure.

4. The defendant contested the suit denying the allegations made by the plaintiff and sought dismissal of the suit.

5. The appellate Court, after hearing both parties and recording evidence, came to the conclusion that the petitioner plaintiff failed to establish any relationship between the landlord and tenant and, as such, non-suited the plaintiff holding that he was not entitled to any reliefs claimed.

The appeal was carried to the District Court. The Addl. District Judge, Kalyan, after hearing both parties, concurred with the findings recorded by the lower Court and dismissed the appeal.

6. At the outset it may be noted that perusal of judgments of both the Courts below make it clear that there is absolutely no evidence on record to show or even to suggest that there is relationship of landlord and tenant between the parties and, therefore, no consequential reliefs could be granted to the plaintiff in the manner in which they were prayed for. Perusal of both the judgments also shows that available evidence is appreciated properly and findings are recorded in just, legal and proper manner and, therefore, it would brook no interference by this Court.

In the result, the petition has no merits and stands dismissed in limine. No order as to costs.

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